



FAO-634-1990 (O&M)

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

133

FAO-634-1990 (O&M)

Date of Decision: 28.05.2024

Smt. Santosh and others

... Appellants

Vs.

Chuni Lal and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Manuj Chadha, Advocate for the appellants.

None for the respondents.

SUVIR SEHGAL, J. (ORAL)

1 Instant appeal has been filed under the Motor Vehicle Act, by the legal heirs of Kamal Singh, whereby they have sought enhancement of compensation awarded by the Motor Accidents Claim Tribunal (for short 'the Tribunal'), Gurugram vide award dated 01.05.1990.

2. Factual matrix leading to the filing of the appeal is that on 16.09.1989, Kamal Singh, who was employed as a driver with the Haryana Roadways was driving a bus which met with an accident with a bus of Rajasthan Roadways-respondent No.2 bearing registration No.

**FAO-634-1990 (O&M)****-2-**

RNP 2741, driven by respondent No.1, who fled away from the spot. Kamal Singh was rushed to General Hospital, Gurugram but succumbed to his injuries on the way. His postmortem, Ex.P-3, was conducted and FIR Annexure P-2, was lodged on the statement of Rajbir Singh-PW-2, an eye-witness. A claim petition was filed by the appellants, which after contest, has been accepted and compensation of Rs.2,16,000/- has been awarded against the respondents, jointly and severally with interest @ 12% per annum from the date of filing of the petition till its realization.

3. I have heard counsel for the appellants and examined the available record with his able assistance.

4. As per office report, respondent No.1 was not found available on the given address. However, respondent No.2 has been duly served but there is no representation on its behalf.

5. On the basis of the evidence adduced before it, the Tribunal recorded a finding that the fatal accident took place as a result of rash and negligent driving of respondent No.1. Salary certificate of the deceased Ex.P-1 was produced by Balbir Singh PW-1, Clerk, Haryana Roadways Gurugram, which shows that Kamal Singh was drawing monthly pay of Rs.1887/- inclusive of all allowances. The said witness deposed that deceased was getting overtime for some months in the year 1989. However, Balbir Singh in his deposition clarified that overtime is paid to long route drivers and when such drivers are discharging duties on short routes, this benefit is not granted. It is, therefore, apparent that the overtime allowance is not a permanent fixture of the salary of the

deceased and cannot be included in his monthly income. The Tribunal assessed the monthly dependency of the deceased @ Rs.1,000/-, which deserves to be increased. Deceased left behind his widow and three minor children. In *National Insurance Company Limited Versus Pranay Sethi and others*, 2017(4) RCR (Civil) 1009 and *Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*, 2009(3) RCR (Civil) 77. Supreme Court has held that where deceased is survived by 4 to 6 dependent family members, deduction for personal expenses should be one-fourth. On the basis of the matriculation certificate, Ex.P-4, which depicts that the deceased was born on 10.04.1952, Tribunal awarded a multiplier of 18 as Kamal Singh-deceased was 37 years of age on the date of death. However, the multiplier deserves to be reduced in view of the settled position. Furthermore, Tribunal has not passed any award for future prospectus or for loss of consortium. The appellants are also entitled for grant of funeral expenses and loss of estate. The total compensation payable to the claimants/appellants is calculated as under:-

HEAD	COMPENSATION AWARDED
(i) Income :	Rs.1887/-
(ii) Future prospectus :	Rs.755/- (40% of income)
(iii) Deduction towards personal expenditure :	Rs.660/- (1/4th of (Rs.1887 +Rs.755)
(iv) Total income:	Rs.1982/- (3/4th of (Rs.1887+Rs.755)
(v) Multiplier :	15 (37 years old)

(vi) Annual dependency:	Rs. 3,56,760/- (Rs. 1982x12x15)
(vii) Funeral expenses:	Rs.18,000/-
(viii) Loss of estate :	Rs.18,000/-
(ix) Loss of consortium:	Rs.1,76,000 (Rs.44000x4)
Total compensation awarded	Rs.5,68,760/- (Annual dependency +funeral expenses+ loss of estate+ loss of consortium
Less MACT award	Rs.2,16,000/-
Enhancement	Rs.3,52,760/- (Total compensation -MACT award)

6. The enhanced amount will earn interest @ 6% per annum from the date of this judgment till payment. Award of the Tribunal is modified, accordingly.
7. Appeal is disposed of.
8. Since the main appeal has been decided, pending application, if any, shall stand disposed of.

28.05.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No